

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 23RD FEBRUARY 2007 / 4TH PHALGUNA 1928

WP(C).No. 4204 of 2007(A)

AGAINST THE ORDER IN IA 10120/05 IN
OS.204/2000 of PRL.MUNSIFF COURT,THRISSUR

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PETITIONER:

ABHILASH, S/O. LATE BALAKRISHNAN,
NADUVILAPARAMBIL HOUSE, ANDAPARAMBU DESOM,
ARYOOR VILLAGE, THRISSUR.

BY ADV. SRI.K.A.SREEJITH

RESPONDENTS:

MAR THEMOTHEOS CHARITIES & CHITTIES,
T.C.35/2509, MARKET ROAD, THRISSUR,

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.P.BALACHANDRAN, J.

W.P.(C)NO.4204 OF 2007

Dated this the 23rd day of February 2007

JUDGMENT

Petitioner is one of the legal heirs of late Balakrishnan who was 3rd defendant in O.S.204/2000 on the file of Munsiff's Court, Thrissur. It is submitted that Balakrishnan was surety to the principal debtor and he passed away after the decree was passed in the suit. It is the case of the petitioner and the other legal heirs of deceased 3rd judgment debtor that they came to know of the decree only on receipt of notice from the execution court and that consequently they filed Ext.P2 petition for setting aside the decree so passed declaring the 3rd defendant ex parte. Copy of decree is not produced and consequently this court is not in position to understand whether the decree is ex parte decree or not. Along with Ext.P1 petition to set aside the ex parte decree they also filed Ext.P2 petition for stay of execution. The prayer in the writ petition is to direct the Munsiff, Thrissur to dispose of Exts.P1 and P2 petitions filed by the petitioner by passing appropriate orders at the earliest. Interim relief also is prayed for to stay all further proceedings pursuant to Ext.P3 execution petition-E.P.978/04 in O.S.204/2000.

2. Having heard the counsel for the petitioner, I am of the view that appropriate directions can be issued in the matter.

3. In the result, I direct the Munsiff, Thrissur to dispose of Ext.P1 petition positively, within two months from today. In the meanwhile, execution of the decree in O.S.204/2000 shall stand stayed till orders are passed on Ext.P1 application on condition that the petitioners in Ext.P1 petition who are additional judgment debtors 6 to 9 shall deposit an amount of Rs.20,000/- before the execution court within one month from today. In case of failure, the stay shall cease to exist and the execution court shall proceed with execution.

This writ petition is disposed of with the above directions.

K.P.BALACHANDRAN, JUDGE

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